

**Ventura County Planning Commission  
Resource Management Agency  
Planning Division  
December 13, 2018**

Rodriguez: Okay, moving on with the agenda with Item no. 8, case number PL17-0084. Greg Elliott applicant de novo hearing. Staff please.

Suphakarn: Good morning Chair Rodriguez, Members of the Planning Commission. My name is Pearl Suphakarn and I am a planner with the Ventura County Planning Division. The item I have before you took admission today is a de novo hearing for planned development permit case PL17-0084 and a consideration of a prior appeal to the planning division to approve a project.

The project site is located at 8120 Puesta Del Sol, in the Rincon Point community in the North coast. For reference, the appellant, Mr. and Mrs. White, property owners of 8128 Puesta Del Sol is the lot immediately to the west. Please also note that there are three Monterey Cypress trees on the appellant's property, one on the northeast and two in the south. The subject property has a general plan land use designation as an existing community and its located within the residential medium Coastal area plan and zoning destination is Coastal One-Family residential. The project site is located immediately adjacent to the beach and southeast of the mouth of Rincon Creek, which is considered an environmentally sensitive habitat area. Also want to point out that the Santa Barbara County and Ventura County line is the dot line right there in the middle. The dotted line in the middle of the picture is the county line that splits the two.

Here are some photos of the existing single-family dwelling. The one on the left is viewing from Puesta Del Sol, which is the front of the property. The picture on the right, viewing from the beach, is the rear and you can also see the appellant's cypress tree in the distance. The proposed project is a request for a planned development to construct a 525-second story addition, interior stairway, lattice overhang and renovation of the existing first floor. The Casitas Municipal Water would continue to provide water and Carpinteria Sewer disposal. I'm sorry and the Carpinteria Sanitary district will provide to its disposal.

The existing single-family dwelling was constructed in 1959 on a grade beam and caisson foundation. The property is considered legal non-conforming due to its uniquely designed layout of having four separate living area with no internal access to each other. The proposed first floor renovations includes interior remodel and combining two of the areas into one, thereby resulting in 3 separate living area. The existing building footprint of the existing single-family dwelling would remain the same. Here is the proposed second floor plan, the 525-square foot second story addition and it will be accessed by an interior stairway to connect the first and second floor. The proposed addition would remove less than 50% of the existing roof area of the residence, thereby will continue to maintain its legal non-conforming structure in accordance with the non-conforming section

of the Coastal Zoning Ordinance. By granting of this PD will not make the structure more non-conforming.

Here is the proposed elevation for the proposed project viewing from Puesta Del Sol. The maximum height including the second story addition will be 23-feet, which is less than the allowable 25-feet of CR1 zoning designation. And for reference, the appellant's property would be to the right. And here is another view, viewing from the beach. Again the appellant's property is to the left. The proposed project qualifies for a Class 1 Existing Facility Categorical Exemption pursuant to CEQA Section 15301(e)(1). Class 1 Exemptions applies to the projects that involve additions to existing structure which will not increase of more than 50% of the existing single-family dwelling or 2500 square foot, whichever is less. As discussed earlier, the proposed project includes interior renovations and addition of 525-square feet which is approximately 27%, therefore the subject, the proposed project qualifies under this exemption.

So I want to go talk a little bit about the timeline thus far for this project. The applicant submits for a Coastal PD permit in June of last year. Two months later the application was deemed complete for processing and at the time staff notified all the interested parties including the Coastal Commission and the Rincon Point Property Owners Association. Unfortunately, staff did not know that the appellant was not a party of the HOA, therefore they weren't notified about the project until much later on right before the Planning Director hearing. When the Planning Director hearing was set for February 15, 2018, two weeks prior to the hearing, staff mailed notification to the property owners within 300 feet of the project site and residents within 100 feet of the project site. A legal ad was also placed in the Ventura County Star. It was not until the day before the hearing that staff received comments from the appellant. And some of the concerns were that second story addition would impact their view, the chimney height, storm water run-off and flooding, and impacts to their Monterey Cypress tree.

On February 15, 2018 a Planning Director hearing was held. The appellant's representative also attended the hearing that day. The appellant's representative testified that staff report did not provide assurance that there will be no foundation reinforcement on the project. In addition, was there any information provided that the protected tree would not be impacted by the proposed project. During this time, the Planning Director has up to 40 days from the date of the hearing to make a decision.

The applicant felt it was important to address some of the concerns received prior and during the hearing, so story poles were erected (as you can see in the picture here) to depict the outline of the second-story addition. Photos were provided to the Planning Division confirming that the second-story addition will not impact the tree and will not necessitate any removal of any tree limbs.

On March 26<sup>th</sup>, the Planning Director approved the requested PD, in your Exhibit 3 of the packet subject to conditions of approval. The approval letter also sets

forth rationale why the Planning Director decides to approve the project and responds to comments and concerns received before and during the Planning Commission. I'm sorry. The Planning Director hearing. Condition No. 20 was added to the project to ensure that the applicant complies to the County Tree Protection Regulations should any removal or alteration of the tree occurs. And while the requirements would be for the applicant to submit an Arborist Report prior to any alteration.

A few days later after the Planning Director approved the project, the appellant files an appeal. These are the grounds of appeal based on the appeal form in your Exhibit 6. However, today staff would like to focus on two items that keep rising to the surface. And that is the appellant's contention that the existing foundation is not adequate and the January 9<sup>th</sup> storm which the appellant contends it was the debris flow which further compromised the existing foundation.

So I just want to take a quick step back because both of these properties have had significant foundation upgrades throughout the year. The appellant in 2007, in 2007 the appellant obtained a zoning clearance to replace their pilings. And in 2015, the applicant did the same thing. Obtained a zoning clearance to reinforce their pilings. Both were an extensive repair and maintenance project, therefore any substantial ground evidence or impacts to the tree roots would have occurred at the time.

In response to the appellant's concerns, the applicant provided lots of information from Van Sande Structural Consultants to ensure that the existing foundation would not require additional reinforcement. Van Sande concluded that the existing pile foundations have been reinforced in 2015 and has the strength and durability to support a second-story addition without additional structural reinforcement. These additional information was also reviewed for adequacy by Roman Smith, Senior Plan Check Engineer with Building & Safety and Roman confirms that the second-story addition would not require additional foundation reinforcement.

The second point staff would like to discuss today is in regards to the January 9<sup>th</sup> storm. In the early hours of January 9<sup>th</sup>, intense rain occurred over the Santa Barbara County foothills scorched by the Thomas Fire. The appellant contends that what occurred that day was a debris flow, which further compromised and damaged the existing foundation system of the project site. However, according to public works agency, no debris flow occurred that day in Rincon Point Community. Jim O'Tousa is also here. He's the County Geologist with Public Works Agency. Jim reviewed the project and should your Commission have any questions in regards to flood or debris flow. Another point I would like to discuss is that the subject property is located partially within the floodway, therefore during intense rain the property will remain subject to periodic flooding. However, the existing residence is designed on caisson's to provide enough support should any erosion occur partially beneath the existing foundation.

Both parties, the appellant and the applicant also submitted arborist report with recommendations, recommended protection measure for the trees. So staff took all of these additional information into consideration and we had internal meetings with the appellant to discuss the proposed project and the grounds of appeal. In response to the appellant's concern, staff provided the applicant and the appellant suggested revisions to the existing conditions of approval. Exhibit 7 in your packet has to legislative format, should you like to follow along. Condition No. 1, project description is revised to ensure that no ground disturbance would occur. No foundation work or removal of any vegetation is authorized by this PD permit. Condition No. 4, this is a standard condition that we impose on all discretionary projects, however, staff reinforced the language to emphasize that no ground disturbance, again, would occur unless a modification to this Coastal PD was approved. For such modification shall remain subject to Condition No. 20, again to comply with County tree protection ordinance. Condition No. 20 we also reinforced the language to ensure that the applicant shall not impact, shall avoid impacting the tree to the maximum extent feasible. And that any ground, above ground alteration of pruning of the tree that extends over the common property line shall comply with the Coastal Zoning Ordinance. The revised condition for number 20, we also implement Duke McPherson's Arborist Report which is the appellant's arborist into the condition in regarding hand excavation should any foundation work occur on the project in the future. And then further states that there will be no foundation reinforcement for this project unless a modification is applied for. Condition No. 1, No. 4, and No. 20 have all been revised to ensure that no foundation, no ground disturbance would occur.

The Planning Division and applicant made several attempts to revise the condition to address the appellant concerns, however, in the end the appellant requests for two additional trees to be protected in the portions of their southern lot. As we discussed, the project is not proposing any earth disturbance grading, foundation modification, and thus no impacts to the tree is foreseen. After eight months of trying, no solution, the applicant requests that the item come to your Commission today. So with that said staff recommends that the Planning Commission find that this project is categorically exempt from CEQA, make the required findings to grant the requested Coastal PD Case Number PL17-0084 subject to conditions of approval, and deny the appellant's appeal. That concludes staffs presentation. I'm available for questions if you have any. Thank you very much.

Rodriguez: Thank you. Questions for staff. All right, it's time to \_\_\_\_\_ to provide disclosure. So if I may, Commissioner White?

P. White: I have no disclosures other than I did visit the site last Tuesday and saw the property subject to the application and also the saw the three magnificent trees on the neighbor's property.

Rodriguez: Commissioner Aidukas.

Aidukas: I have no disclosures.

Rodriguez: Commissioner Kestly.

Kestly: I have no disclosures.

Rodriguez: Commissioner Onstot.

Onstot: I have no disclosures.

Rodriguez: And I have no disclosures. Questions of staff.

Onstot: I have a question.

Rodriguez: Commissioner Onstot.

Onstot: Do any or all of these trees extend over the applicants property?

Suphakarn: Yes the first one. So the one to the northeast, the canopy does extend over to the applicants property. So the trunk is located in the appellant property but the limbs kind of extend over which is close to the second-story addition.

Onstot: Okay.

Suphakarn: But the second-story addition will be far enough away.

Onstot: Do I understand Condition 20 to require a zoning clearance and a site inspection by an arborist before the applicant can even trim a branch?

Suphakarn: Correct. Should there, is any, you know, an alteration or if the applicant would like to trim the tree or make any modification, the applicant is subject to that condition to come to the Planning Division, provide an arborist report for us to review and approve before they can even obtain a permit to do so.

Onstot: County Counsel? It was always my understanding that the adjacent property owner has the right to prune something even when the trunks on the other side of the line. Is that not true?

Counsel: That's true but the Coastal Act, the Coastal Act still applies and so trees are protected under the Coastal Zoning Ordinance and so that's where you got a layer of permitting that's...

Onstot: Okay so that's where the power comes to impose this condition?

Counsel: Exactly.

Onstot: Okay. Thank you. I have nothing further.

Rodriguez: Okay this is a de novo hearing. I have a speaker cards. Can I have the appellant please?

Petrovich: Good morning Mr. Chair, Honorable Commissioners my name is Susan Petrovich and I'm an attorney with the law firm of Brownstein Hyatt Farber Schreck and I'm speaking on behalf of the appellants and I do have a PowerPoint that I'd like to quickly run through.

Rodriguez: Okay.

Petrovich: Thank you. First, I want to apologize for deluging you with letters and exhibits but we did have to for legal reasons make a good record. I do want, the key point here is that the Whites do not oppose the project. They support the project if the trees are adequately protected and in this instance we're mostly concerned with the root zone. As you can see the third bullet down defines tree removal and that would include the driving of piles through roots and that would be tree removal and then the last bullet refers to arborist Duke McPherson's report, that recommended pre-excavation be conducted with hand tools but he recommended that it be done by under the supervision of a neutral arborist, not just any tree consultant and so that's one thing we do not agree with on the conditions.

These trees are within the 100 foot ESHA buffer. They are very close to the Elliott house and we do appreciate all that your staff has done to modify the conditions but they still aren't adequate to protect these trees and we still believe that the project is inconsistent with the Coastal Area Plan, the Coastal Zoning Ordinance, and with Coastal Commission requirements. There's been no comprehensive examination of these wooden piles. The most recent, well, there have been a number of "assessments", visual assessments but there has not been any real examination of the piles and these things have been buried in saturated soil. Here, under this particular property, groundwater is at four feet. So you can imagine that these piles been in salt water for a very long time. This is a picture showing you how close they are to the White, to the Elliott property and this is even more telling these lines, these arcs that you see are under the Elliott house and they are, these are the way you calculate the root zone using the county's own ordinance of Section 8178-7.4.3. So as you can see there's very likely to be root zone, sensitive root zone under the Elliott house. No one's actually gone out and done any excavation, so the Elliott's did hire an arborist and he's a very qualified arborist but instead of following the county's calculation, and calculation for identifying the root zone and without doing any subsurface work, he in his own assessment assumed that the trees because it's sandy soil the roots would go down, which is just great except for the four-foot ground water elevation, the trees, this is not, these aren't mangroves. They can't live in salt water. So the trees, the roots are going to have to go out not down.

We believe that these, that the project, did I go past? These piers are not likely to meet the code and the next, not only has there been extensive flooding that's occurred periodically on this site but we disagree with Public Works and believe

that in fact there was a debris flow on this property. And as you can see by the handout that I've given you and one of the slides, the new FEMA map that just came out about a week ago shows that, in fact, this is a debris flow area. The Whites replaced their wood piles because they were rotten and the two houses were built at about the same time. So the idea that these piers can be assumed to be solid enough that there won't be a problem and they won't have to do any additional subsurface work to support them, is just not valid. Incidentally, thanks to Neil Maguire, we did receive the structural engineer's latest report on the piers and all he did was a visual assessment. There was no subsurface work and that was in December of this year. So here is one example of the flooding and as you can see those piles are being inundated and here is the debris flow in January this year and here is the close-up of that map of the debris flow and of course the property is just to the right of that dotted line where it meets the ocean. And this is just a quick memo from your Building & Safety folks reminding the applicant that a plan is not final until it's final and a lot of things can happen in the meantime, new information can emerge.

The staff has changed the conditions. They've done a pretty good job but Condition No. 20 still references only one cypress not three. We've never been able to figure out why they don't reference three. It doesn't reference the root zones for these trees and the need to protect them. It doesn't require the roots to be avoided. It says protected to the maximum extent feasible. That's not the same as avoiding. So and also there's no reference anywhere in that staff report about the site and those trees being in the ESHA buffer and we think that's relevant. So I have here a reference to the CEQA guideline and it makes it very clear that you can't use a categorical exemption if there's a reasonable possibility of significant environmental impacts due to unusual circumstances. And it seems to me that being in the hundred foot setback from an ESHA is an unusual circumstance. And then I just want to draw your attention to the Coastal Area Plan, their goal number one for tree protection is to protect trees that function as important biological and visual resources within the coastal area.

So I'd like to also draw your attention to the second bullet, development in the 100 foot ESHA buffer shall incorporate the best mitigation measures feasible and qualified biologists shall monitor any temporary disturbance. So the following slides will give you an idea of the quality of this ESHA. And this last one, I lost it. Is there anything you can do to get that back? So I included this slide because as Commissioner White noted these are magnificent trees and they have a very unique beauty in this landscape and this beach is used by the public. So again we, we only ask that you disapprove this project if you do not direct staff to include the red lining that we included in our submittal to you. The red lining just clarifies those various issues that I covered earlier. The Whites don't want to delay the Elliotts any further, they have no opposition to the project. They again just want to be sure that these trees are adequately protected and that all three of them are adequately protected not just one. Thank you. Does anyone have any questions of me?

Onstot: I have a question.

Rodriguez: Commissioner Onstot.

Onstot: What is the condition of the trees now? Are they healthy?

Petrovich: They are, they're quite healthy and they're mature.

Onstot: Okay. In my understanding of the situation is that the project will have no ground disturbance, no additional ground work is contemplated but your concern is that it will have to happen. It's happened to your client and it probably needs to be done to theirs and when it is done it'll adversely affect these trees.

Petrovich: We're concerned that there be adequate consideration of all these things because yes, we are concerned that they'll either get to the end of their planning and their final plans and realize well maybe we should make sure these things are intact and that they are reliable or they will start the project and they'll start having repercussions and suddenly it's an emergency, we're under construction and we have to fix these piles and let's just use, they talked about helical piers which are six inches in diameter and that won't hurt the trees and there's a lot of talk about that in record. So as a result we're concerned that this will get rushed through, the Whites won't be aware of it and the, I think the staff has done something, a good job of trying to deal with that but I don't think they went far enough, in just including this information in the record and in the conditions, so it's very clear that if they go back and have to do any work whatsoever on these wooden piers, adequate steps are taken that pre-construction excavation and complete avoidance of the tree roots for these cypress.

Onstot: If I'm correct your study indicated that the root zone extends under the home significantly. Is that correct?

Petrovich: That's a calculation. We did not go under and excavate. That's a calculation pursuant to the county ordinance that determines protected root zones.

Onstot: But you said that someone from the county didn't indicate that that the zones extended that far. Is that correct?

Petrovich: No they didn't even address the, what I said was that the applicants arborist said that the trees probably go down, they don't, wouldn't go out because of the sandy soil and first of all you can't make that assumption given the ordinance but even if you made that assumption, you have to take into account the shallow groundwater and in his report he didn't mention the shallow groundwater. Four feet is pretty shallow for roots for trees this size.

Onstot: What kind of excavation was required of your clients to solve their problem?



Petrovich: They did exactly what arborist McPherson recommended. They had an arborist come out and they had, they did basically digging, hand shoveling everywhere there was going to be a pile to make sure they wouldn't sever roots.

Onstot: Do I understand that this problem can be resolved by this you say helical? I don't know the term.

Petrovich: Helical.

Onstot: Yeah. It can be done without excavation?

Petrovich: No, what I said is that there's an implication that helical piles and they're actually mentioned in the record, that helical piles are no problem. We could just drive some piles in and it wouldn't, we wouldn't have to worry about the damage to the tree roots. And nothing could be further from the truth, because if you severed one of those big tree roots with a helical pile it's going to damage the tree. And so you'd have to do, that's why, McPherson the arborist is recommending that before you do any work at all on the foundation, you first do this hand shoveling digging to make sure you don't damage the tree roots.

Onstot: So how do you do that under the main structure?

Petrovich: Well the structure's elevated.

Onstot: I beg your pardon?

Petrovich: It's elevated.

Onstot: How high? How far does it clear the ground? Do you know?

Petrovich: Oh, we have pictures...

Onstot: I was just wondering if someone was going to physically do what you want done if the root structure is as extensive as you think it might be.

Petrovich: If we could, going to take you back and actually you can, you can see these, every time I do that, every time I go back. Can you go back to the beginning? Because I can't. Every time I go back it. Keep going in this. There's a picture, a photo of the, there you, go back. That was it. You can see how high off the ground it is. Those are the piles that you're looking at. Well let me see if I can point one out. There's piles there, there's piles.

Onstot: I see that. Is that an elevated portion for a carport?

Petrovich: Mm-hmm, that's the one we're talking about.

Onstot: What about the structure on the right?

Petrovich: These are the one, well that's.

Onstot: Okay.

Petrovich: This is where the piles are that we're talking about. They have concrete piles that they did work on many years ago but they didn't, haven't done any work on these wooden piles.

Onstot: Okay. Thank you Ma'am.

Kestly: I have a question.

Rodriguez: Commissioner Kestly.

Kestly: So if I understand, your clients concern is if you get down to the wire and you're going to start construction and it's suddenly discovered that you do have to do something to the foundation, that there might be some sort of a rush and then appropriate actions would not be taken. So this may be more of a question for county staff. Condition 20, I believe, requires a modification to a PD. What is required to get a modification?

Welch: Good morning Commissioner Kestly, the applicant would have to formally submit a modification application to the underlying Coastal Plan Development permit and the Planning Director through a discretionary action has to approve, conditionally approve, or deny the request. The applicants would be notified of that request and they would be well informed of any potential changes to the underlying Coastal PD.

Kestly: So it does require notification just like any other PD would be required?

Welch: Yes.

Kestly: Thank you.

Petrovich: And our concern is.

Counsel: I guess I would just add that also that brings CEQA back in because it's another discretionary approval. So you'd have to at that point see if there's going to be impact on the roots and the trees.

Petrovich: And we're just concerned that the...

Kestly: Thank you.

Petrovich: ...Whites may not be in the country. They do you travel quite a bit and they just might not hear about it and it'll be done before they can do anything about it. So we thought if the conditions included this additional protective language at least we'd covered there.

Rodriguez: Commissioner White.

- P. White: Thank you. Question, we've heard testimony here that there's no ground disturbance expected. The applicants structural engineer whom I know and respect has said that the existing foundation is adequate for the proposed addition and has inspected just recently this month the wooden piers that were of concern. My question would be, if there is no ground disturbance in carrying out this project, will your client be satisfied that the trees won't be disturbed?
- Petrovich: That the tree roots will not be disturbed, yes. I think Commissioner Kestly hit the nail on the head. Our concern is, you know, a rush, a hurry up, we've got to get this project going.
- P. White: And so that's a yes they will be satisfied that the trees will, tree roots will be okay, and if it turns out that it is required to do some foundation work once this thing gets reviewed by County Building & Safety then as I understand it there's a condition that requires it to all come back for further review and at that time this review of the analysis of what might happen with tree roots and how to deal with out would come up and everyone would have a chance to have input at that time.
- Petrovich: If they get notice, if the Whites aren't here in the country they wouldn't be aware of that and our concern was the Condition 20. Again it says, protect to the maximum extent feasible. It doesn't say avoid and that you can say to the maximum extent feasible but if somebody says I want to put a pile here and it has a root there, the roots going to be severed and it doesn't require an arborist to supervise. It requires a tree consultant.
- P. White: But if I can ask staff, would this not come back before the county if the foundation does need to be modified and ground disturbance that could potentially hit roots. Then would there not be a new opportunity to further condition this to do what Duke McPherson, to whom I know and respect as an arborist, has suggested needs to be done, could be done?
- Welch: Commissioner White, that's a resounding yes and I just want to mention two things. First, I was actually the author of the tree protection regulations in this LCP so I'm well aware of how to calculate the tree protection zone and I actually went one step further to do two calculations, the one that is the most prohibitive is the one that you adhere to. Also I want to mention, qualified tree consultant is actually defined in article two and that includes a certified arborist or a qualified tree consultant that has adequate experience and years under his belt as approved by the Planning Director. So we have this additional layer in Condition No. 20 that requires the applicants to number one, submit an arborist report to determine if any pruning needs to happen and that that is overseen by that arborist. The reason that we have those inspections is because the Coastal Commission asks that we make sure that these pruning operations are monitored so that we understand how small this tree could get over time. That layer is in there and it's not just Condition No. 20, it's the project description, its Condition No. 4 PD modification and Condition No. 20 that all state, no foundation is proposed or

permitted in this Coastal PD and if they do need to do any foundation they have to come to planning to modify the underlying discretionary Coastal PD.

P. White: Thank you.

Rodriguez: Any other questions of the speaker? Thank you.

Petrovich: Thank you.

Rodriguez: Okay, next. Okay, Mr. Maguire.

Maguire: Good morning Chair Rodriguez and members of the Commission, I'm Neal Maguire, the attorney representative for the project applicants, Greg and Michelle Elliott. I'm with Ferguson, Case Orr Paterson here in Ventura. We also have Scott Boydstun of Rasmussen our architect, as well as \_\_\_\_\_ of Van Sande our structural engineer to answer questions although they have been answered very clearly and accurately by staff so far. Before I get into the substance of my comments, just to clear up some of the concerns that we've heard before, I'd like to introduce Greg Elliott to say a few words about the project.

Elliott: Thank you all by the way for all the time. A lot of work has been done on my property for the past year, many hours and I certainly appreciate it and thanks for giving me a chance to say something. Again I'm Greg Elliott, that's my house and I first came to Rincon on a college surf trip. It would have been 1986. We were down in San Diego and we heard that Rincon was breaking. Obviously I'm a surfer and I got to come up and it was perfect and as I'm walking along the beach you can see all these houses like this one along the way and I was like wow people get to live here too. So for the next couple decades I worked really hard. So we started renting a house in the summertime, about seven, eight years ago now, we're renting a house in the neighborhood before we finally had the opportunity to buy this house and in the neighborhood it's known as the Hazeltine house, one of the original ones and loved the fact that it's mid-century. Love it that is from 1959, however, it has never been updated and it does need a couple of updates by now, you could imagine. It doesn't have a laundry room. It doesn't have a guest bathroom and look we want to make it really inviting to guests that we bring to enjoy it as well. So this is my project, you can see that elevated room, you've seen it before, that that back elevated piece, it's really two rooms it looks like one room to me, that's it. And the most important parts to us when we were doing this, were number one, it remains consistent with the integrity of the original architectural design and two that it fits in with the neighborhood, including the houses around it and I believe that one elevated piece captures both of those. You could see the lines, they're very consistent. It still maintains that mid-century design and secondly that elevated section that's on the parking side of the home, is exactly what both houses on either side have as well, including the Whites. This is the house that's right next to me on the other side, so on my east side, and it's that same setup.

Speaker 1: We need to direct you to speak in the mic, when you turn sideways \_\_\_\_\_.

Elliott: I'm sorry.

Speaker 1: Thank you.

Elliott: So it's the same setup as that on either side of me. And look there's a lot of discussion about the tree, now multiple trees as well and just so everyone hears it for me, I understand concerns about a tree. We love the tree as well, look we are, the trees as well. We built the house in Houston many years ago on a lot that had magnolia trees and live oak trees and we did our best to protect them and we did and we call them arborists here, in Texas we call them tree doctors. We had one on staff. We were very careful about all that and with or without this added language and all the things that are now in my permit, I would not do anything to hurt the tree. I don't need all the language to tell me that right. Over the past ten months now we tried to address the concerns and we understand again we do not want to hurt the tree. We feel like we've addressed all that and I wouldn't do anything to hurt the tree. Thank you.

Aidukas: I just have a quick question for you please. That's me. Hi.

Elliott: Hi.

Aidukas: What's your background?

Elliott: My professional background?

Aidukas: Sure.

Elliott: I work in what's called private equities. So we take pension plans much like you have here and we invest them in industrial companies. We buy industrial companies and we try to make them better.

Aidukas: That's good. I just wondered if you had a background in architecture and it seems like you have a very strong affinity for that mid-century aesthetic because you were talking about the roof lines and that piqued my interest.

Elliott: I do not have a background.

Aidukas: But you have a fine appreciation.

Elliott: I really have a fine appreciation of it.

Aidukas: And is this your home?

Elliott: That is our second home. I live in Houston and I'd like to move here ultimately but I have a 14-year old who's in high school there and have a job for now in Houston.

Aidukas: Good, good for you. The other question that I had was, do you have an objection to having some kind of language added to the condition regarding the trees that might, the roots that might be from the other two trees?

Elliott: I believe we've covered all that and I don't have an objection to what's written now. I'm looking at you because I'm not sure exactly what that means.

Rodriguez: Mr. Maguire.

Maguire: If I could step in, so our condition does address those two trees. I'm a little puzzled by the comment that Condition No. 20 does not apply to the two trees on the south because to be clear it also applies to any foundation work on this property. We went above and beyond, not just foundation work associated with this project.

Aidukas: Let me just follow up with staff very quickly to get clarification in my mind.

Maguire: Yep.

Welch: Commissioner Aidukas? Sorry to interrupt Neal. Condition No. 20 actually references the Coastal Zoning Ordinance Section 8178-7 which is the tree protection regulations and in those regulations it talks about identifying the tree protection root zone. It identifies pruning. It identifies the procedures for obtaining zoning clearance and permits and so it's inclusive of all of that so.

Aidukas: So is it an inclusive of all the trees?

Welch: Correct, correct.

Aidukas: I would hate to like find out that this tree, this root that I might think comes from here is actually from over there so it's, it's all inclusive.

Welch: So first, no foundation or earth disturbance...

Aidukas: Got it.

Welch: ...is permitted with the CDP.

Aidukas: Mm-hmm.

Welch: If they come back, then not only do we do additional environmental review, but this host of regulations comes into play and that's where they have to look for the roots, manually do subsurface excavations...

Aidukas: But that's speculating that there's something that's going to occur in the future but what we have before us, everything's covered.

Welch: Correct and there is no conflict. Thank you, appreciate it.

Maguire: Thank you.

Rodriguez: Any other questions of the speaker? The applicant?

Maguire: I did have a presentation.

Rodriguez: Mr. Maguire, go ahead.

Maguire: That I think...

Rodriguez: Thank you Mr. Maguire.

Maguire: \_\_\_\_\_ sit down and perhaps we can just run through it very quickly.

Rodriguez: I'm sorry Mr. Elliott.

Maguire: No and just to clarify again some of the items because I do really want to point out I think from our perspective how far above and beyond we've tried to go over the last 10 months to address these concerns. So I'll skip through the story polling because Ms. Suphakarn covered all of that but that was the very first thing that we did after the Planning Director hearing, where we received these comments as we went out and we story poled in order to address those concerns. Once we did that, we did get the, you can see there, the site overhang but we did get the concerns then that turned more towards the root zone and again, I just, I have to hammer this over and over again, this project from day one has said that we will not be doing any ground disturbance. The original staff report that you have in your packet at Tab 4 says no grading, no foundation work, all of that, it's very clear, so that's what we tried to do over the last two months and when Ms. Petrovich references, well there's references to helical piers and so on. What we were trying to do was to say, look there's no ground disturbance, if in the future things happen here's what we'd do. And we tried to provide an additional level of comfort to the neighbors by referencing those but again my concern with doing further work all along was that essentially no the good deed goes unpunished because it does get used against us. Well, why are you referencing helical piers if you're not going to use them? Well we were trying to show that there was a non-invasive way to address any concerns as speculative as they may be even if those issues arose in the future.

So I did want to address a couple items though because we heard from Ms. Petrovich that Bill Spiewak our arborist did not do any underground investigation of the root system and that's accurate. What's not accurate though is that there's never been any excavation, because again in 2015, prior to the Elliott's purchasing the home when the Hazeltine's had it, they reinforced all of the foundation except for those four wooden piers at the carport there. In that process, the people who are doing the work, they did all of that work by hand as well they did not encounter any roots in the area and that's an exhibit, a letter from Van Sande in Exhibit 9 of your packet. So there has been subsurface work in that area that has not encountered roots.

There was a question about the clearance, obviously the carport is not representative of the home as a whole, there is about 24 to 36 inches of clearance there but again the work that we've done with Van Sande in April and May of this year and the work that has been blessed by county engineering staff, by Roman Smith, you know, what we did was essentially accelerate the Building & Safety process that usually comes after planning approval and usually people don't want to commit the resources to doing that work until the planning portion is done because you want to have that certainty. We accelerated all this and we're very appreciative of county engineering staff for doing that as well to try to make a few things very clear. And again, through all this whole process no ground disturbance has ever been envisioned but we wanted to ensure that the neighbors were comfortable that the existing foundation would be sufficient and in 2015, that existing foundation was actually enhanced above what it had been so it was reinforced to a 300 percent level.

We also had Van Sande look at and say okay, those four wooden piers that remain that have been raised by, the issue was raised by the neighbors, we had Van Sande look at, is this addition, is this proposed addition even going to put any load on those piers. No, the answer to that is no and Roman Smith confirmed that. The next comment that we got after that is well the last work that you did on that was 20 in 2015 and we had this winter storm in 2018. We had Van Sande go out this month and look at the piers again and they have concluded that they remain in excellent shape. They are structurally sound and according to the letter that you have in Exhibit E they will last for the life of the structure of the home. So again, we have done quite a bit from the engineering side to ensure that the neighbors' concerns have been addressed and to provide the certainty that we don't have any ground disturbance that's being envisioned here.

With that said we also went above and beyond with the conditions. We proposed the language that you have in Exhibit 7 several months ago and again, it applies if there's any foundation work whatsoever, again, not even related to this project. If in 15 years the foundation needs to be reinforced for some reason associated with the site conditions and again, not related to this project, we have agreed that we will come back in for that modification to the Coastal Development Permit. That's not something that we have to do even under the code and you saw that the prior work that was done by both the neighbors and the prior owners here were done with a zone clearance. We're happy to take on those obligations because we wanted to address the concerns.

Again we're puzzled that there's a feeling that there's something missing from there. Again, all of the foundation work would be encompassed, there's no carve outs of the two trees on the south there. If those root zones are impacted in the future by any foundation work, these condition comes in and applies and of course we always have to comply with the code itself, which has very specific, very detailed, Ms. Welch did a very good job with that ordinance and essentially requires hand excavation for work in the area as well. I want to just, the point that Ms. Petrovich made with regard to the maximum extent feasible as opposed to



avoidance, we did want to leave open the possibility that if there is a root that comes in as damaging the home, that that is something that can be addressed in the future. That was my concern with that language. That there's not an absolute there just because we wanted to avoid that circumstance. So I know I'm belaboring the point, I've covered ground that's been covered very well by staff, if you do have any questions for us we are available to answer them.

Rodriguez: Yes Commissioner Aidukas.

Aidukas: I did have one question occur to me. Mr. Elliott mentioned that there was no laundry room and no guest bathroom. So what has to be done to have new lines for those?

Maguire: I think that work has actually already been done and...

Elliott: Yes.

Maguire: Perhaps Greg can come up and.

Aidukas: That's fine. So there's nothing moving forward that.

Maguire: Correct.

Aidukas: Okay, thank you.

Maguire: Thank you.

Rodriguez: Any other questions? Thank you.

Maguire: Thank you for your consideration.

Rodriguez: Continuing with the speaker cards. I have Mr. White, is that Doug White?

D. White: Yes, I'm Doug. Commissioners I'm Doug White. I'm the appellant and maybe the most valuable thing I could say while I'm here is why I'm here. I'm a retired farmer. I've lived at Rincon for 60 years. I don't take it for granted for a day. As a farmer I'm concerned with stewardship. I'm concerned with taking care of the land, concerned with taking care of resources and so as well as a long-term Rincon resident, I'm aware that any kind of carelessness with construction can have big consequences. Since resources in Rincon are so concentrated in a small area and it's such a public space, I think we need to be particularly careful and I was concerned as I looked into this project, as I became aware of the possibility, that, particularly in one meeting in April, that there could be the use of helical piers, the thing that concerned me about that technology, I didn't, I wasn't familiar with it before, is that helical piers are essentially metal cork screws that are screwed with a high torque engine into the ground but blindly. So even if you have an arborist standing right next to the operation, you can't see what's going to happen unless you pre-dig. Now it might seem unreasonable to ask for pre-

digging but I experienced that myself when we repaired all of our pilings under our house. The reason we did that hand digging as we needed to because we were replacing wooden piers with carbon fiber piers. We had to hand dig everything down below water level, shore it like a mineshaft, pump out the water, keep on going. It's tough but it's possible. I learned in when I did that project that the way you examine a wooden pier is not to just look at it from the outside. I spent a whole day under my house with a timber analyst who specialized in old wooden piers and you take a core and then you get a good sense and they actually make a map of each piling showing the degree of decay and the long-term life of the piling. He told me at that time that a piling in these conditions usually has a life of about 45 years. The Hazeltine house was done in 1959, we built our house in 64, basically the pilings are a little bit older. I know the house well because I visited in 1960, the architect was a friend of my family's and so I'm quite familiar with the building.

Now you'll see in the letter from Duke McPherson that he met with me on April 17<sup>th</sup>. The reason I met with him and called him was because I was so concerned about what I had heard in a meeting called by staff on April 16<sup>th</sup>. That was when the issue of the use of helical piers first arose and that was when I became suddenly sensitive to the fact that all my trees might be a risk rather than the initial trees that I raised. So I think it's important also to remember that because of the proximity to the creek and estuary that all these trees are specially protected. Now I wanted to also point out that it is like living in a national park. I asked people that I saw on the beach if they cared about the trees and about 90 people signed this petition. It's in the record and I think that's indicative of the fact that we have to be aware that it's not just not just jobsite it's an especially valuable area and we have to be particularly careful not to not hurt it.

Now just to clarify one other issue, I didn't want to contend that a mud flow damaged the Elliott's house, what I would like to say is that the mud flow happened and it should be analyzed as a future problem and I feel that those wooden piers are uniquely susceptible to that risk. In the past we always looked along the coast at damage from the ocean, wave run up studies, now we have this new threat and I would like to correct the record. Since I suffered the damage from that mud flow that I've been there long enough to remember flood events where the Creek would flow bank-to-bank, the worst in 69, 80, 83, 95, they're all burned into my brain. This was not a flood. There wasn't that much rain but there was a blast of energy that came through the tunnel underneath Highway 101, strong enough to move boulders, some 36 of them, weighing between two and three tons each out into the surf zone. We had never seen anything like that happen before. It happened in just 15 minutes, two hours later there was hardly any water in the river. It wasn't a flood, it was a debris flow event. So I'd like to be clear about that and I feel it's very important for the whole county for Ventura County as well as Santa Barbara, that we analyze these events and learn from them and assess our degree of risk. Now I think that's essentially what I had to say. Do you have any questions for me?

Rodriguez: Commissioner Aidukas do you have a question?

Aidukas: I just want to make sure that you understand that the helical devices are not before us. There's going to be no ground disturbance and no change to the piers as they appear not to be required.

D. White: When it was presented to me as a likely possibility in April, I became concerned. When it was disavowed in August, I wasn't terribly convinced. It seemed to me that there were still problems where these might need to be invoked and a lot of the language indicated they kept restricting the conversation to just the area under the addition. I'm still a little worried that Building & Safety down the road may decide that this is necessary and should it be necessary I'd ask you to give me the peace of mind, give me the extra protection and assurance what do they lose if there's no foundation to work going to be done, it certainly doesn't hurt them to acknowledge that these are especially protected trees and should anything be done it needs to be done according to the root zone specified by Duke McPherson and the method that he suggested which I think provides an easy solution.

Aidukas: But again I want to make sure that you understand that that isn't before us today. That's something that would occur separately if it was deemed necessary down the road and that there would be another opportunity to have engineers, experts, consultants, discuss it. I think everybody is in agreement that the trees deserve protection and that they will be more than adequately protected. And I see that you're not I'm not reaching you.

D. White: I would like the peace of mind to have ironclad protection because I'd like to be able to walk away from this right now. I'm sure Greg is tired of it. I know I am. I just like the peace of mind of knowing that this has been really resolved because I have other things to do with my life and I'm sure Greg does too and I would hate to see this linger on and on and on and have that uncertainty. I don't think what we have proposed in any way harms them and it does give us that peace of mind because there been so many errors and omissions throughout the process. They're in the record. We've identified them and I think it's, that plus my past experience losing beautiful trees at Rincon in the relatively recent past, that's what made me decide to get involved.

Aidukas: All right, well thank you.

D. White: Thank you.

Rodriguez: Thank you. I have three other speaker cards. Is it, I can't pronounce the first name. White is the last name. Can you help me out with the first name? And then I have a Giti, I'm assuming it's pronounced Giti White followed by \_\_\_\_\_.

Maguire: Mr. Rodriguez?

Rodriguez: Sir?

Maguire: \_\_\_\_\_ is part of the applicant team. He's our structural engineer.

Rodriguez: Okay did you have?

Maguire: And he's available for questions.

Rodriguez: Did you have any questions of the structural engineer while she's up here or any comments you'd like to make. I'm sorry go ahead.

J. White: Good morning Commissioners, my name is Jaleh White.

Rodriguez: Hi Jaleh.

J. White: And I am the other half of the appellant. The reason I am here is this off-again on-again foundation modification has been going on for now eight months. One of the important meetings that we had and it was not part of the staff recited was on April 16. At the request of the planners, we came to the office and we had a two and a half hours of meeting regarding the foundation and the tree protection for all the trees not only one tree. At that meeting on April 16, we were told that definitely there would be helical piers used for the foundation but they did not know how many and where. So we were told that they were going to go and find out how many helical piers were going to be used and where very soon. The next day our arborist came and measured the trees according to the Ventura ordinance and measured the roots, decided where the roots are. So we heard nothing from the county until August 7<sup>th</sup>, August 7<sup>th</sup> they asked us to go back again, this time they said okay maybe they're not helical piers going to be used. So this off-again on-again foundation modification has been going on for months. And another point was they were only concentrating on one tree and in the staff report one of the things that bothers me a lot is that all of a sudden on September 28th out of the hat we brought out two other mature cypress trees and the applicant got unhappy about it. Why would we do that, we have been talking about the trees for months and their protection and another matter that another point that became very clear to us on August 7<sup>th</sup> contrary to what I hear today, is if there is going to be a foundation modification, then the planners have sole discretion of approving the project and we won't have the opportunity to appeal. If that is not correct I like to know that if the future, in the future, there will be modification to the foundation do we have the opportunity to appeal or not? That is something is very important for us and for the trees. On August we were told that it's the sole discretion of the planners to decide for the permit adjustment, rather than we have any saying it. So that's all I have to say. Thank you.

Rodriguez: Excuse me. Question Commissioner Aidukas?

Aidukas: I just want to follow up on that because it sounds like there was some, you know, miscommunication. Could you go through what's actually before us and then the speculation that there might be future work and how they're notified and how they are involved in that process if it ever occurred?

Welch: Yes Commissioner Aidukas. So before us now is a coastal planned development permit. It's a discretionary permit meaning a decision-maker has to approve, conditionally approve, or deny the project. It is not a staff level administrative approval okay, neither would any modifications to the permit be a staff level discretionary approval. It would still go to the Planning Director okay. So there is no foundation work, there is no earth disturbance as part of the proposed project, okay, but we did have this Condition No. 20 to say hey if the second-story addition needs to require any pruning of the branches, which by the erection of a story poles doesn't seem necessary but we added this additional safeguard then the applicant has to come in with a certified arborist report with recommendations on pruning and then they oversee those pruning activities. We spent several months with the Whites and with the Elliots to hopefully address your concerns regarding the trees. I'd like to correct Ms. Petrovitch in that the staff report actually does recognize the trees as ESHA and we went one step further to recognize any bird nesting that could potentially occur during the bird nesting season. The applicant has to do surveys and they don't get to construct if there's any nesting birds until those birds fledge. So we're well aware of the environmentally sensitive habitat of Rincon Creek. Now you're correct, we did have meetings and we talked about helical piers. Helical piers are from what I understand and I'll defer to the structural engineer a very non erosive way to reinforce a pile versus trenching and then removing it. And we went through that process so everybody understood it's one of the less intrusive construction methods to reinforce piles. We were only investigating that. The permit had always said no foundation work, no ground disturbance. We heard you. We heard your concerns and that's when we reinforced the conditions to restate three times that no foundation is permitted as part of this Coastal PD. Now if during the course of construction there is an incident where, oh we have to reinforce, work is halted, and they have to come back to the Planning Department and reconcile that issue through a modification and potentially more environmental review. They don't get to continue to work because that was not a part of their entitlement and so as the permit stands they have to comply with the Coastal Zoning Ordinance Tree Protection regulations which are very, very comprehensive and they have to come back to modify the permit if they do any foundation work or earth disturbance associated therewith.

Aidukas: And following up on that if there was an objection there is a way to appeal that as well?

Welch: Absolutely, there is an appeal process that's folded into our code that because it's discretionary action, even if it's an administrative action, that public has a right to appeal.

J. White: And we would be notified?

Welch: Absolutely.

J. White: So I have one more question, up to now it has been only, first it was on February 15, it was anecdotal tree. It was not any mention of any trees, it was anecdotal tree, one tree, then to months and months and spending hours and hours and thousands of dollars of money on our part, now it's only one tree. Condition 20 if you look at it is only one tree and other trees. Not three trees, not three trees. So we like to make it very clear that there are three trees on our property and we like protection for all of them not just one tree on Condition 20, is only one tree still not under mentioned other tree's not identifying them by tree number, one tree number, two tree number, three and their root zones. We like to have all the root zones there so in case in the future they want to have used these helical piers. As it is, it says no disturbances and no foundation modification under the addition, not under the whole renovation, first floor renovation and I should mention that the addition, the second-story addition is above what the covenants for Carpinteria Sanitary District so they can't put anything underneath there most of it it's restricted covenants. The rest of the house where the helical piers could be also should be included in the not having any foundation disturbances. So as it is it's only under the addition they say there will be no helical pier or no foundation, not on under the whole house. I'm sorry it's very complicated. We have been reading this for months and each time I read it, I become even concerned. If in the beginning when the application was filled it would say there are three trees on the next door, so we do everything to protect them we wouldn't be here. We wouldn't have spent all this time and money and the staff time and your time. That wasn't done. When in the application they said are there any trees to the adjacent property? The architect said no, so that's how the whole thing is started. Are there any restrictive covenants? No, that was wrong. Is there any creek? Creek they were mentioned it was on the east side. It's actually on the west side of the building. So the application had problems that's why we are here.

Rodriguez: Okay, thank you, not to interrupt but I think we understand why we're all here and I think staff had a follow-up comment to your comments.

Welch: Yes, so Mrs. White good to see you again.

J. White: Thank you.

Welch: You know it's if you look at our discretionary permit application it's pretty laborious and it's not uncommon that people put down incorrect information but fortunately we have really, really good case planners that unravel that to make sure that what they're working before them is accurate and legitimate okay so when those things came about, Nicole \_\_\_\_\_, who was the case planner, recognized that there were trees associated with Rincon Creek and she identified that in the staff report and thus the ESHA requirement for bird nesting. So we do recognize the trees and in the revised Condition 20 it does not distinguish what piles. It is an inclusive pile foundation for the entire house and I'd just like to state the condition in legislative format. It states, additionally and as noted above, no subsurface foundation work is authorized by this Coastal PD Permit. The

project is not expected to impact the root system of the cypress tree or any other trees so that would include all the trees on your site. However, and only to address the comments from the neighboring property owners, in the event that foundation work is required in the future a modification of this Coastal PD shall be required as set forth in Condition No. 4 above. Such foundation work shall first require manual subsurface inspections overseen by a qualified tree consultant of approximately three to four feet deep, which is what Duke McPherson had recommended to inspect the protected tree roots. Roots in excess of two inches shall be protected to the maximum extent feasible. Now, I've worked with Duke McPherson and I've worked with Bill Spiewak and I've worked with a number of other arborists and when they do sit there, over there, monitoring they make sure that any roots that are going to be pruned or that they are doing it under the guise of ISA standards which is the International Arborist Standards okay everybody follows those rules. We've even referenced them in our tree protection regulations. So I've really tried to put in a number of safeguards to ensure that these trees will be protected, I don't know what more we can do.

J. White: What you can do is to say this is number one, this is number two, this is number three rather than any other tree because I'm thinking if construction workers are working, how do they know what is other trees there are so many other trees. There are some on the other side there's some across the creek, construction workers should know where the trees are where the roots are. That's what we like.

Welch: And at the arborist oversight during if and when they even have to do any excavation that arborist would be able to determine where those roots are originating from and that's part of the condition.

J. White: It would be very helpful if all the trees were recognized as one, two, three with the roots that's all we're asking. We're not asking for something extraordinary you're asking the trees are there, your ESHA and you say where the roots are so if somebody is digging they know that's the tree and roots so I will be careful. That's all I'm asking and thank you very much.

Aidukas: Thank you.

Rodriguez: Thank you.

Aidukas: Can I just ask just staff I'm looking at the language in Condition 20 and it has to do with pruning, that's just pruning limbs, that's not excavation at all?

Welch: Correct.

Aidukas: So you don't need to worry about trees that aren't hanging over the property. You got to look at the whole thing.

Rodriguez: Okay, Mr., is it Giti? Is it, White?

G. White: Yes.

Rodriguez: Pronounce your first name.

G. White: Giti White.

Rodriguez: Okay.

G. White: Good morning Commissioners I think you know the reason that one of the main reasons we're here is that we've got ambiguities and inaccuracies that persisted from February all the way through to now and there are things we could do to tighten up the conditions. The project conditions are still ambiguous. Amended condition of approval on page number two suggests that foundation modifications will not be required in, you know, for the second-story addition but does not fold in the first for renovation into that and so one way to clarify that there won't be any foundation modifications required is to fold in the first floor renovation as well as the second-story addition. So that the project as described in its entirety is analyzed and to clearly state that that won't require...

Welch: I, could you tell me what condition you're looking at that you think is ambiguous?

G. White: It's on page, I actually don't have it in front of me but it's on page number two.

Welch: Okay I'll do my best to catch up with you.

G. White: It's on the page and it basically it says that it's limited to the second story edition and that's actually what staff said here as well so whenever we say that modifications won't be required that's been tied to the second story edition not folding in the first floor renovation, and that is a larger scope project, more of the floor plan would be impacted and that comes closer to the two trees that have been thus far left out, and that's why we want to make sure after that discussion in April that those trees root zones are protected as well, and that the prohibition on foundation modifications or that analysis includes the first floor renovation. Why not include the whole project, why not protect all the tree root zones. Other concerns are, basically errors and emissions that persist in the aerals you know we've basically gone through months just to get to the point of recognizing three trees, recognizing that there's ESHA, identifying meaningful site constraints which were readily verifiable and still don't exist in the staff report, like the existence of sewer infrastructure underneath the house. The existence of adjacent drains, the proximity to the creek, you know, the final aerial image suggests that this project site is far from where it actually is. It actually is at the corner of Puesta Del Sol not further down the beach as the staff report suggests so the proximity would have protected habitat is really important.

Other meaningful site conditions are not, I mean we never alleged that this project site was damaged by the mud flow but the point is we experienced a mud flow. Heavy equipment was out there for days, there were significant feet of mud on site on our property, on neighboring properties, on properties on both the Ventura



and the Santa Barbara side of Rincon point. It's a warning, and it's a warning that you know I really appreciate Santa Barbara County stepping up and assessing the risk to our community, mapping us as a debris flow risk area. I think it's, you know, we would do well in Ventura County to learn from how they've addressed the disasters after the Thomas fire because there's significant burn areas here and the types of impacts are widespread in Carpinteria Valley, and so it's not just one place or another that might experience mud flow, and there are logistical issues like we experienced for days, heavy equipment moving dump truck loads of mud out of our community. Where to put it? How local governments coordinate in order to remove it when roads are closed damaged and what kinds of things are going on. So I think the thing is assessing these risks, accessing the actual constraints of the site, and tightening up the language. Protecting the tree root zones, what's the harm? This is a really special place it matters to a lot of people, it's required by the tree protection ordinance. Why not specify that the project all aspects of it are not going to require foundation modifications up front rather than commit to it and then how'd that happened later and not assess those impacts prevent those harms, thanks.

Rodriguez: Thank you for your comments.

Welch: Planning Commission, I have Jim O'Tousa sitting in the audience and I don't want to hold him any longer than is necessary, so I asked Jim to come so he could talk about what occurred on January 9th during that storm flow. He actually had boots on the ground...

Rodriguez: Sure.

Welch: So do you mind Jim coming to the podium? Thank you.

O'Tousa: Good morning Commissioners my name is James O'Tousa. I work in the County of Ventura Public Works Agency as a geologist. I happened to be in that community at about 5:38 that morning because of the event that was occurring. We were watching on our normal storm patrol. So we drove the coast thinking La Conchita was going to be in harm's way and we continued up through Bates road and it was experiencing flooding. I'm not going to contend there debris flow but these were flooding events that occurred as opposed to the Montecito type debris flow that they experienced in Santa Barbara County. So with that being said, if you've been up there you know that there's a box culvert underneath Highway 1. So if a debris flow was to clog that it would build up and then flow down the under crossing of Bates Road. And at about 5:30 that morning, we couldn't turn around at Bates Road, which is the end of our county, which is where we turn around because of flooding. So in the type of event we had and looking at the hydrograph, if you will, how the rainfall came it came a lot of rain, very fast, about an inch in 15 minutes, Santa Barbara got hit with. So as a layperson, I can understand why you would think that kind of runoff in one of these creeks would be a debris flow or a mud flow. But in reality, that creek did not experience the same kind of debris flow Santa Barbara experienced and it is in a FEMA flood

plain meaning that it is going to get flooding when we have significant rain events. Any questions?

Rodriguez: Questions our speaker.

Aidukas: I don't know that it's your department actually but did you were, you were here during the presentation where you saw the water on the subject property. Would that affect its structural soundness? Or is that not your...

O'Tousa: That would not be me but water picture they gave two pictures. The second, the water picture was simply from a flooding event, from rainfall. The second picture was more what I would call the terminus of a flood event where it carries debris and sediment with it.

Aidukas: It's not his..

O'Tousa: I don't know if that answers your question or not.

Aidukas: Good enough thank you.

Rodriguez: Thank you for coming.

O'Tousa: All right.

Rodriguez: Thank you. I have the last speaker card. Mr. Maguire you say this is your structural engineer, Mr. \_\_\_\_\_?

Maguire: Mr. \_\_\_\_\_ was just available for questions.

Rodriguez: Just available for comment okay thank you. We have any other questions, requests to staff?

Welch: Thank you County Commission. I just want to reiterate to the Whites, you know we've worked really hard to really safeguard these trees and we've really reinforced these conditions. And so one of the items that I think may assist you Giti, is in Condition No. 1 the project description, it states that no ground disturbance is proposed as all new development is located within the existing development footprint or building footprint. And you're right, it says the proposed second-story addition will not require supplemental reinforced concrete pier foundations. We can revise that to say the proposed project that way it's inclusive to all the modifications to the house; the interior and the second story and that way it captures everything and I think that will even reinforce this condition even better.

Rodriguez: Okay thank you for your comments. Commissioner White?

P. White: I have a question of staff, we we're about to hear another one of these beachfront permits and we heard one earlier this year where sea level rise was taken to

account and wave run up analysis. We all know that with climate change that it's projected that the sea level will rise significantly around the world and here in Ventura County. And in the second permit that's coming today there is a sea level rise and wave run up analysis done and it was done on the previous one. Can you explain why on this permit that hasn't been done? It seems long term that both of these properties, the applicant's property and the appellant properties will be subject to flooding? Maybe not just Rincon Creek but also the ocean and why aren't we dealing with that today?

Welch: Commissioner White the project that we heard a couple weeks ago, and the second item on today's agenda, involves a demolition of a single-family residence and a reconstruction of a whole new residence. So as I had mentioned in the previous hearing, the Coastal Act says if you take out more than 50% of your structure you no longer get the benefit of being called an existing structure. You're considered a new structure and therefore you're subject to the litany of review to make sure that new structure complies with the Coastal Commission sea level rise policy guidance and thus the need for a wave run up and the additional analyses associated with that. This project is an addition. It's far less than the 50% percent. Pearl said it was around 27% and therefore they get the benefit of the existing development and therefore no change in the footprint and thus no need for a wave run up.

Rodriquez: Okay thank you. There being no other speakers, we'll close the public hearing.

Aidukas: So there's no rebuttal?

Rodriquez: You're right.

Counsel: Yeah, the applicant...

Rodriquez: Yeah.

Counsel: Should have the opportunity.

Rodriquez: Thank you, thank you.

Aidukas: Is it the applicant or the appellant?

Counsel: It's the applicant.

Aidukas: okay.

Rodriquez: Mr. Maguire, Mr. Elliott, your rebuttal. Thank you, I forgot.

Maguire: Good morning again and thank you for the opportunity. Just to be brief to first state we are amenable to the modification that Ms. Welch just mentioned there. Again we of course want to provide the clarification that's needed. With regard to Mr. White's comments, I just, I think it's clear now, just want to make sure that

what he had been asking for with the hand excavation from the Duke McPherson report, that's been incorporated into the condition, we plan to comply with that. So all of the other items have been adjusted by staff I believe. We're available for any questions but thank you very much.

Rodriguez: Thank you. Okay, we'll go ahead and close the public hearing. Commissioners, comments? Yes Commissioner.

P. White: Yeah I want to thank everybody for coming, spending their morning here in County Government Center. I think that all of us up here are interested in doing the right things always and I know the appellants are concerned about their trees, as they should be, they are magnificent trees that need to be protected. I think the county staff has gone out of their way to craft some conditions that take that into account and in my mind have done a really good job of putting words down that will end up protecting those trees. We've heard testimony that the applicant structural engineer says no new foundation work will be required therefore no ground disturbance is expected. Of course that has to be confirmed ultimately by County Building & Safety but assuming that that carries forward there will be no ground disturbance, no root disturbance, and therefore the trees roots will be protected. I'm personally satisfied that the conditions proposed in this permit adequately address the concerns of the appellant and if it turns out that Building & Safety and maybe the structural engineer say, oh no, we do need to strengthen the foundation, then it's all going to come back and be reviewed again and the applicant and the appellant and anybody else will have the opportunity to come back here and have input in to continuing to protect those trees. I'm inclined to make a motion to follow the staff recommendation as presented to us maybe some of you all want to talk about it but that's what I'm inclined to do. So okay I will, I move the staff recommendation.

Rodriguez: I second it. Will that include the modifications the staff has just verbalize to us? That would. Any other comments or discussion by Commissioners? Commissioner Kestly.

Kestly: I just want to thank everyone that came here today and it's really great to hear passion for protecting trees and ensuring that every measure is taken. I've been in the construction industry for over 30 years and you forced me to actually go and look up what helical piers are, also what the material Simpson FX-70 is and what that process is and it was a fascinating discovery for me because it's not something I've had any experience in. So I appreciate that and I do agree that I feel that staff has adequately protected in every way, shape, or form those trees. So I will support the motion.

Rodriguez: Commissioner Aidukas, comments?

Aidukas: I've been in your shoes and it's unnerving when you discover factual errors and other errors that make you question the process. I think you've made the process

better and I thank you for that and I think it's going to be a beautiful addition and I think that's a good thing. So I am prepared to support the motion as well.

Rodriquez: Commissioner Onstot, any comments?

Onstot: Nothing for me.

Rodriquez: The only comment I would make is I concur with the motion and would support it also. I think a lot of work has gone into this thing, a lot of effort has been made and I think almost going above beyond to make sure that everything is dealt with and may be that needs to be dealt with and the modifications just proposed by staff I think further address that. I think, I appreciate the Whites' input and comments on this item and I appreciate Mr. Elliott taking the effort to do it and do it right and accept the conditions of approval. So with that I haven't no other comments. Excuse me?

Speaker 2: Could you please restate the conditions \_\_\_\_\_?

Rodriquez: If staff could restate the conditions of the revisions.

Welch: So for the revision, this is Condition No. 1 project description and it's the fourth paragraph from the bottom. Right in the legislative format, instead of saying the proposed second-story addition it will say the proposed project will not require supplemental reinforced concrete pier foundations including but not limited to. Thank you.

Rodriquez: Excuse us a moment while we catch up with the record here. Okay, we have a motion and a second, can we have a vote please? Okay, thank you very much. I'm going to take a brief five minutes and come back to the next item. Thank you.